

Founded in 1852
by Sidney Davy Miller

MILLER CANFIELD

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March 26, 2009

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Response of Allendale Communications to Omnibus Notice of Apparent Liability for Forfeiture, Released February 24, 2009
EB File No: EB-08-TC-2918
FRN: 0002773315
NAL Account No: 200932170208

Dear Ms. Dortch:

Our office sent the attached Response of Allendale Communications to the Omnibus Notice of Apparent Liability for Forfeiture (*ONALF*) (rel'd February 4, 2009) to the Commission on March 25, 2009 via overnight delivery. We used the mailing addresses for the Office of the Secretary, and for Marcy Greene, Deputy Chief, that were in the *ONALF*. We also sent copies of the Response to your attention at:

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

We have received confirmation of delivery of the Response at the Capitol Heights address. However, our commercial overnight delivery company (FEDEX) has given us a preliminary indication of difficulty delivering the Response to you and Ms. Greene at the addresses that were provided in the *ONALF*. To ensure the Commission's receipt of the attached document by all concerned, I am e-mailing a copy of it to Ms. Greene today (Marcy.Greene@fcc.gov), and sending her an additional copy via United States mail today. I am also filing the Response via the Commission's Electronic Comment Filing System in proceeding 06-36.

Very truly yours,

Miller, Canfield, Paddock and Stone, P.L.C.

By: _____
Michael C. Rampe

MCR/clh
Enclosure
LALIB:179158.1\130035-00001

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March 25, 2009

VIA FEDEX OVERNIGHT

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
Attn: Enforcement Bureau-Telecommunications Consumers Division

Marlene H. Dortch
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

**Re: Response of Allendale Communications to Omnibus Notice of Apparent
Liability for Forfeiture, Released February 24, 2009
EB File No: EB-08-TC-2918
FRN: 0002773315
NAL Account No: 200932170208**

Dear Ms. Dortch:

Enclosed for filing please find one (1) original and four (4) copies of the response of Allendale Telephone Company d/b/a Allendale Communications Company to the Omnibus Notice of Apparent Liability for Forfeiture, which was released on February 24, 2009. Note that the Omnibus Order listed the company's FRN as 0010632859, however, based on communications with the Enforcement Bureau, we understand that the FRN should have been 0002773315.

Very truly yours,

Miller, Canfield, Paddock and Stone, P.L.C.

By: Michael C. Rampe
Michael C. Rampe

cc w/ enclosure: Marcy Greene, Deputy Chief
Telecommunications Consumers Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	File No. EB-08-TC-2918
Annual CPNI Certification)	
)	NAL/Acct. No. 200932170208
Omnibus Notice of Apparent Liability for)	
Forfeiture)	FRN: 0002773315

**RESPONSE OF ALLENDALE TELEPHONE COMPANY D/B/A
ALLENDALE COMMUNICATIONS COMPANY
TO OMNIBUS NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Allendale Telephone Company d/b/a Allendale Communications Company (Allendale Communications), by and through its attorneys, Miller, Canfield, Paddock and Stone, PLC, hereby responds to the Commission's February 24, 2009 Omnibus Notice of Apparent Liability for Forfeiture (*ONALF*) in the above matter.¹ Appendix I to the *ONALF* identified "Allendale Communications" as one of the companies for which the Commission has proposed a monetary forfeiture in the amount of \$20,000.² For the reasons provided below, the Commission should not impose any forfeiture on Allendale Communications because it did timely file its annual CPNI Certificate for the calendar year 2007.

¹ *In re Annual CPNI Certification, Omnibus Notice of Apparent Liability for Forfeiture*, DA 09-426 (rel'd February 24, 2009).

² Note that the *ONALF* listed the company's FRN as 0010632859. However, based on communications with the Enforcement Bureau Staff, Allendale Communications understands that the FRN was incorrectly listed, and should instead have been 0002773315.

The *ONALF* ordered companies identified in Appendix I to either: (1) pay the full amount of the proposed forfeiture, or (2) submit further evidence and arguments to show that the proposed forfeiture is unwarranted (§ 13). The *ONALF* made the required payment or response due within 30 days of its February 24, 2009 release date, thereby establishing a due date of March 26, 2009. Allendale Communications has elected option (2) above, and therefore files this timely response.

I. FACTUAL BACKGROUND

Allendale Communications Company is a d/b/a of Allendale Telephone Company, a Michigan corporation. Thus, Allendale Communications and Allendale Telephone are not separate entities, but are one and the same. Appended as Attachment A is a copy of Allendale Telephone's Certificate of Assumed Name, as on file with the state of Michigan, which permits the use of Allendale Communications as a d/b/a. This document is also viewable online via a state of Michigan website.³

Mr. David C. Schroeder, the President of Allendale Telephone, signed an Annual CPNI Certification on February 13, 2008, for the calendar year 2007. Mr. Schroeder mailed the Certification to the Commission for filing, which the Commission received on February 19, 2008. A copy of the Certificate is appended as Attachment B, and it is also viewable through the Commission's Electronic Comment Filing System (displayed under "Allendale Telephone Company"). Because Allendale Telephone does business as Allendale Communications, the February 13, 2008 CPNI Certificate identified

³ The website location is http://www.dleg.state.mi.us/bcs_corp/sr_corp.asp (type "Allendale Communications" in the prompt area).

"Allendale Communications" as the filing entity. The Certificate was accompanied by a cover letter bearing Allendale Telephone letterhead.

II. IMPOSING A FORFEITURE ON ALLENDALE COMMUNICATIONS IS UNWARRANTED

The *ONALF* asserts that the companies identified in Appendix I "have apparently, willfully or repeatedly" violated the Communications Act of 1934 (as amended), the Commission's rules (47 CFR 64.2009(e)), and the Commission's *EPIC CPNI Order*.⁴ Allendale Communications did not violate any CPNI requirement. Allendale Communications timely filed its Certificate in February 2008 for the calendar year, a copy of which is attached.⁵ The Commission may not have realized that it received Allendale Communications' Certificate because the accompanying cover letter bore "Allendale Telephone Company" letterhead. Nevertheless, Allendale Telephone Company d/b/a Allendale Communications did timely file its annual CPNI Certificate, and has complied with the FCC's CPNI requirements at all relevant times.

Allendale Communications agrees with the Commission that "[p]rotection of CPNI is a fundamental obligation of all telecommunications carriers" (*ONALF*, ¶ 1). Allendale Communications protects CPNI, and timely filed its annual Certificate. Allendale Communications clearly does not deserve any forfeiture.

⁴ *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information; IP-Enabled Services*, CC Docket No. 96-115; WC Docket No. 04-36, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 6927, 6953 (2007) (*EPIC CPNI Order*), *aff'd sub nom Nat'l Cable & Telecom Assoc v FCC*, No. 07-132 (DC Cir, 2009).

⁵ The Commission's rules required Allendale Communications to file with the Commission its annual CPNI Certificate for the calendar year 2007 on or before March 1, 2008. 47 CFR 64.2009(e).

III. CONCLUSION

Allendale Telephone Company d/b/a Allendale Communications timely filed its annual CPNI certificate with the Commission. The Commission should therefore issue a ruling that cancels the proposed forfeiture for Allendale Communications.

Respectfully submitted,

March 25, 2009



Harvey J. Messing (Michigan Bar No. P23309)
Michael C. Rampe (Michigan Bar No. P58189)
Miller, Canfield, Paddock & Stone, PLC
One Michigan Avenue, Ste 900
Lansing, MI 48933
517-487-2070 (Telephone)
517-374-6304 (Fax)

LALIB:178890.1\130035-00001

Attachment A

Michigan Department of Consumer and Industry Services

Filing Endorsement

This is to Certify that the CERTIFICATE OF ASSUMED NAME

for

ALLENDALE TELEPHONE COMPANY

ID NUMBER: 150294

to transact business under the assumed name of

ALLENDALE COMMUNICATIONS CO.

***received by facsimile transmission on January 28, 2005 is hereby endorsed filed on
January 31, 2005 by the Administrator. The document is effective on the date filed,
unless a subsequent effective date within 90 days after received date is stated in the
document.***

Expiration Date: December 31, 2010



***In testimony whereof, I have hereunto set my
hand and affixed the Seal of the Department,
in the City of Lansing, this 31st day
of January, 2005.***

, Director

Bureau of Commercial Services

Attachment B



Allendale Telephone Company

EB Docket No. 06-36

Received & Inspected

FEB 19 2008

FCC Mail Room

February 14, 2008

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street S.W., Suite TW-A325
Washington, D.C. 20554

RE: **Form 499 Filer ID #808482**

Dear Secretary Dortch,

In accordance with 47 CFR 64.2009(e), please find attached the Company's Annual Compliance Certificate for the previous calendar year, 2007. The Compliance Certificate includes the Company's:

- Statement explaining how its operating procedures ensure compliance with 47 CFR, Part 64, Subpart U;
- An explanation of any actions taken against data brokers; and
- A summary of all customer complaints received in the past year concerning the unauthorized release of customer proprietary network information (CPNI).

If you have any questions regarding this filing, please direct them to the undersigned.

Sincerely,

David C. Schroeder
President of the Board of Directors
Allendale Communications

Enclosure

cc: Byron McCoy, Telecommunications Consumers Division, FCC Enforcement
Bureau, byron.mccoy@fcc.gov

PO Box 509 Best Copy and Printing, Inc., fcc@bcpiweb.com
6568 Lake Michigan Dr.
Allendale MI 49401
616-895-9911

1151 West Randall
Coopersville MI 49404
616-997-9911
atelco.com

CERTIFICATE OF COMPLIANCE WITH PROTECTION OF CUSTOMER PROPRIETARY NETWORK INFORMATION RULES

Including:

Statement Explaining How Operating Procedures Ensure Regulatory Compliance

Explanation of Any Actions Against Data Brokers, and

Summary of all Customer Complaints Received

David C. Schroeder signs this Certificate of Compliance in accordance with § 222 of the Telecommunications Act of 1996, as amended, 47 USC 222, and 47 CFR 64.2009, on behalf of Allendale Communications (Company), related to the previous calendar year, 2007.

This Certificate of Compliance addresses the requirement of 47 CFR 64.2009 that the Company provide:

- A "statement accompanying the certificate" to explain how its operating procedures ensure compliance with 47 CFR, Part 64, Subpart U;
- An explanation of any actions taken against data brokers; and
- A summary of all customer complaints received in the past year concerning the unauthorized release of customer proprietary network information (CPNI).

On Behalf Of The Company, I Certify As Follows:

1. I am the President of the Board of Directors of the Company, and therefore an officer of the Company. My business address is 207 E Cedar Street, Houston MN 55943.

2. I have personal knowledge of the facts stated in this Certificate of Compliance. I am responsible for overseeing compliance with the Federal Communications Commission's (FCC) rules relating to CPNI.

Statement Explaining How Operating Procedures Ensure Regulatory Compliance

3. I have personal knowledge that the Company has established operating procedures that are adequate to ensure compliance with the FCC's regulations governing CPNI, including those adopted on March 13, 2007 in CC Docket No. 96-115.

4. The Company ensures that it is in compliance with the FCC's CPNI regulations. The Company trains its personnel regarding when they are authorized to use CPNI, when they are not authorized to use CPNI, and how to safeguard CPNI. The Company maintains a CPNI Compliance Manual in its offices for purposes of training of new and current employees, and as a reference guide for all CPNI issues. Our CPNI

Compliance Manual is updated to account for changes in law, including the FCC's most recent changes to its regulations governing CPNI, adopted on March 13, 2007 in CC Docket No. 96-115. The CPNI Manual contains key all essential information and forms to ensure the Company's compliance with CPNI regulations.

5. The Company has established a system by which the status of a Customer's approval for use of CPNI, as defined in 47 USC 222(h)(1), can be clearly established prior to the use of CPNI. The Company relies on the involvement of its high-level management to ensure that no use of CPNI is made until a full review of applicable law has occurred.

6. Company personnel make no decisions regarding CPNI without first consulting with management.

7. The Company has an express disciplinary process in place for personnel who make unauthorized use of CPNI.

8. The Company's policy is to maintain records of its own sales and marketing campaigns that use CPNI. The Company likewise maintains records of its affiliates' sales and marketing campaigns that use CPNI. The Company also maintains records of all instances where CPNI was disclosed or provided to third parties, or where third parties were allowed access to CPNI. These records include a description of each campaign, the specific CPNI that was used in the campaign, and the products and services that were offered as a part of the campaign. The Company maintains these records in its offices for a minimum of one year.

9. In deciding whether the contemplated use of the CPNI is proper, management consults one or more of the following: the Company's own compliance manual, the applicable FCC regulations, and, if necessary, legal counsel. The Company's sales personnel must obtain supervisory approval regarding any proposed use of CPNI.

10. Further, management oversees the use of opt-in, opt-out, or any other approval requirements, or notice requirements (such as notification to the Customer of the right to restrict use of, disclosure of, and access to CPNI), contained in the FCC's regulations. Management also reviews all notices required by the FCC regulations for compliance therewith. Before soliciting for approval of the use of a Customer's CPNI, the Company will notify the Customer of his or her right to restrict use of, disclosure of, and access to, his or her CPNI.

11. The Company maintains records of Customer approval and disapproval for use of CPNI in a readily-available location that is consulted on an as-needed basis.

12. The Company complies with all FCC requirements for the safeguarding of CPNI, including use of passwords and authentication methods, and the prevention of access to CPNI (and Call Detail Information in particular) by data brokers or "pre-texters."

13. The Company, on an ongoing basis, reviews changes in law affecting CPNI, and updates and trains company personnel accordingly.

Explanation of Actions Against Data Brokers

14. The Company has not encountered any circumstances requiring it to take any action against a data broker during the year to which this Certificate pertains.

Summary of all Customer Complaints Received

15. The following is a summary of all customer complaints received in the past year concerning the unauthorized release of CPNI: None.

16. The Company does not at this point have any specific information on the processes pre-texters are using to attempt to access its Customer's CPNI.

Date: 2/13/08

David C. Schroeder

David C. Schroeder
President of the Board of Directors
Allendale Communications